

Decision by Portfolio Holder



Report reference: CRS-008-2020/21

Date of report: 19 March 2021

**Epping Forest
District Council**

Portfolio: Commercial and Regulatory Services – Cllr A Patel

Author: Nick Dawe Democratic Services: J Leither

Subject: Waiver of Procurement Rules to extend existing contract with Turner and Townsend for preparation of Master Plan for North Weald Airfield

Decision:

Approval is sought for extension of existing contract between the Council and Turner and Townsend for preparation of a Master plan for the North Weald Airfield and to set aside Section 10.1 of the Procurement Rules for reasons set out in the report.

ADVISORY NOTICE: <i>A Portfolio Holder may not take a decision on a matter on which he/she has declared a Pecuniary interest. A Portfolio Holder with a non-pecuniary interest must declare that interest when exercising delegated powers.</i>	
I have read and approve/ do not approve (delete as appropriate) the above decision:	
Comments/further action required: None	
Signed: Councillor A Patel	Date: 14 th April 2021
<i>Non-pecuniary interest declared by Portfolio Holder/ conflict of non-pecuniary interest declared by any other consulted Cabinet Member:</i> None	<i>Dispensation granted by Standards Committee:</i> Yes/No or N/A
Office use only: Call-in period begins: 14 th April 2021	Expiry of Call-in period: 21 st April 2021

**After completion, one copy of this pro forma should be returned to
Democratic Services IMMEDIATELY**

Reason for decision:

To enable delivery of a Master Plan which is compliant with the Emerging Local Plan and fulfils Council's ambitions for the local economy and future of the North Weald Airfield.

1. Options considered and rejected:

- 1.1. It is important that with the economic challenges and opportunities facing the district that the masterplan that supports the development of the employment land adjacent to North Weald Airfield is both comprehensive and timely.
- 1.2 A new procurement exercise for the planned and budgeted phase 2 work of the North Weald Employment Land masterplan would cause delays, lack of continuity and potentially additional costs if Turner and Townsend were not successful. This is because a new incoming consultant would need time to get up to speed with the project and crucially take time to reconnect with the various stakeholders, noting that the initial consultation exercise has now concluded.

2. Report:

- 2.1 In July 2019 the Council invited tenders for consultancy services for preparing Master Plan for the North Weald Airfield (NWA) in line with the then Local Plan Submission Version. The consultancy services were to enable the Council to achieve the benefits from this key Council owned asset. This included the desire to develop a 10 Hectares employment land, expansion of aviation related activities of this key heritage airfield and the provision of suitable community uses.
- 2.2 After a competitive procurement exercise Turner and Townsend Project Management Limited were appointed as the successful partner using approved specialist sub-contractors. A formal contract was entered into and work commence on the master plan preparation. Turner and Townsend have liaised with the local community, North Weald Parish Council, businesses and tenants on the Airfield and various Council departments especially the Planning Team.
- 2.3. Stage 1 of the master planning work has now been completed and an interim consultation report has been produced. This work has taken longer than originally planned because of Covid 19 requiring a different approach to consultation than originally forecast. The stage 1 exercise and consultation responses has resulted as expected in setting the scene for the stage 2 work.
- 2.4. To address the stage 2 work which will cover further environmental work, analysis of transportation, sustainability, fit with the local community and other specific issues such as supporting young entrepreneurs further work and analysis needs to be commissioned to meet the consultation timetable of late Summer 2021 and adoption of the master plan in Autumn 2021. See the attached document “North Weald Airfield – Preparation of the Strategic Masterplan RPS Masterplanning, Planning and Environmental – Fee Uplift Request” from Turner & Townsend that identifies in detail the additional works required.
- 2.5. It should also be noted that additional work on the protection of the heritage of the airfield and ensuring its success in future years is also being undertaken allowing the District as landowner to make a landlord decision on development of the North Weald site after the master plan has been approved.
- 2.6. It should be noted that the District has budgeted £140,000 for the first phase of the work, £140,000 for the second phase of the work and a further £75,000 (of £200,000 in total for airside developments).
- 2.7. The carry out the additional phase 2 and phase 3 master plan work by due date, it is recommended that the contract with Turner and Townsend be extended to carry out the additional planned work using the existing detailed project controls to ensure value for

money and quality delivery.

- 2.8. It should be noted that it will be necessary to set aside section 10.1 of the Procurement Rules to enable the extension of the Contract. The additional fee is built on the original hourly rates as agreed following the procurement exercise and offers value for money.
- 2.9. It is important to note that the original Procurement process, although tendered competitively, was not compliant with EU Procurement Regulations; this is because the initial estimated costs were below the EU threshold of £189k, therefore EU Rules were not applicable. As the scope has changed over time and the cost has now exceeded the threshold, there is a possibility that our process could be challenged by another supplier who would've been interested had they known the full scope of the work at the time. While the likelihood of this is low, the risk of the challenge being successful is high; however, taking everything into account we believe the risk of terminating this contract and running a new procurement exercise to be a greater risk to the Council due to the reasons listed above.

3. Resource Implications:

- 3.1 The budget set aside for the project and included in this and next year's budget is £355,000 made up of £140,000 in 2020/21, £140,000 in 21/22 and £75,000 (air side) in 2021/22.
- 3.2 Following the award of the contract in July 2019 a Purchase Order was raised with a value of £198,658 in total. This was subsequently revised to £228,918.50 to reflect the change in scope arising from extended phase 2 work. Following engagement of RPS for additional options and modelling including phase 3 work the total Order will be revised to £343,492.00. This should be set against the £355,000 budget set aside allowing for a margin of contingency or saving.
- 3.3. So far, a payment of £217,194.51 has been made to Turner and Townsend, the final payment is due which will bring the total to the final £343,492.00 by the time the project is completed.
- 3.4 By waiving the Procurement Rules and extending engagement with the incumbent consultant team there is no financial risk to the Council, the charge rate will be based on the already agreed fees. Regular review meetings with Planning and other staff ensure value for money and delivery.

4. Legal and Governance Implications:

- 4.1. Relevant planning, environmental, highway and aviation legislation are being taken into consideration when considering options for the future of the North Weald Airfield.
- 4.2 There is a risk of challenge to Procurement process as explained in paragraph 7 of the report and this has been considered when making the recommendation.

5. Safer, Cleaner and Greener Implications:

- 5.1 A Master Plan for the Airfield that complies with the aspirations of the Council and the Emerging Local Plan will fulfil the development potential while ensuring sustainable ambitions.

6. Consultation Undertaken:

6.1. Procurement Team

7. Background Papers:

7.1 Previous reports on future of NWA and budget Bids.

8. Impact Assessments:

8.1 N/A

9. Risk Management:

9.1. If the decision is taken to carry out a new procurement exercise then it is very likely that delays will arise. This can cause reputational damage to the Council if it is seen to not give high enough priority to the project.

9.2 There is a risk, as set out in paragraph 7 of the report, of challenge from another supplier. If this were to happen then the Council will have to meet with the challenger and justify the reasons for not extension in scope. This was not the original intention and the scope creep has led to extension of the commission with Turner and Townsend. If the challenger is not satisfied then a formal legal route will be adopted.

10. Equality Analysis:

10.1 The Equality Act 2010 requires that the Public Sector Equality Duty is actively applied in decision-making. This means that the equality information provided to accompany this report is essential reading for all members involved in the consideration of this report. The equality information is provided at Appendix 1 of this report.

11. Key Decision Reference (Y/N):

11.1 N/A

<p>Initialed as original copy by Portfolio Holder:</p>
